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Filing date: **02/18/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	CUPID CHARITIES, INC.		
Entity	Nonprofit Corporation	Citizenship	District of Columbia
Address	3457 Ringsby Court, #205 Denver, CO 80216 UNITED STATES		

Attorney information	Alexander J.A. Garcia PERKINS COIE LLP 1900 Sixteenth Street, Suite 1400 Denver, CO 80202 UNITED STATES ajagarcia@perkinscoie.com, pctrademarks@perkinscoie.com
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Registration Subject to Cancellation

Registration No	4615907	Registration date	10/07/2014
Registrant	The DEW, LLC 2012A East 22nd Street Austin, TX 78722 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2006/11/02 First Use In Commerce: 2006/12/08 All goods and services in the class are cancelled, namely: Arranging and conducting special events- for business purposes; Arranging and conducting special events for commercial, promotional or ad- vertising purposes; Corporate event management services; Event planning and management for marketing, branding, promoting or advertising the goods and services of others; Special event plan- ning for business purposes; Special event planning for commercial, promotional or advertising pur- poses

Grounds for Cancellation

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	907 Petition.pdf(1044142 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Alexander Garcia/
Name	Alexander J.A. Garcia
Date	02/18/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CUPID CHARITIES, INC.,

Petitioner,

v.

THE DEW, LLC,

Registrant.

In the matter of Registration No. 4615907

Mark: Undie Run

Registered: October 7, 2014

Cancellation No. _____

PETITION FOR CANCELLATION

Petitioner, Cupid Charities, Inc. (“Petitioner”), a non-profit corporation organized under the laws of the District of Columbia with a business address in Denver, Colorado believes that it will be damaged by the continued registration of the mark “Undie Run” (“Alleged Mark”) shown in U.S. Registration No. 4,615,907 (“Registration”). The registrant of record for the Registration is The DEW, LLC DBA Undie Run (“Registrant”), a Texas limited liability company with a business address in Austin, Texas.

As grounds for its Petition for Cancellation, Petitioner alleges that, upon actual knowledge with respect to itself and its own actions and upon information and belief as to other matters:

I. INTRODUCTION

1. Petitioner realleges and incorporates by reference the preceding allegations of its Petition for Cancellation.

2. Petitioner is a non-profit organization that uses the phrase “CUPID’S UNDIE RUN” in association with a charitable undie run.

3. The “undie” element of the phrase “undie run” is an abbreviation for the term underwear.

4. The “run” element of the phrase “undie run” refers to the physical activity of running.

5. The phrase “undie run” refers to an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

6. Charitable organizations and others commonly use the phrase undie run to describe an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

7. As a non-profit organization, Petitioner uses the phrase “CUPID’S UNDIE RUN” in association with its charitable undie run events to raise money and awareness for the Children’s Tumor Foundation, the world’s largest non-government organization dedicated to ending a genetic disorder called neurofibromatosis.

8. Petitioner’s CUPID’S UNDIE RUN is typically held on or around Valentine’s Day weekend, when participants run approximately one mile in their underwear.

9. Petitioner’s first use of CUPID’S UNDIE RUN in connection with its first undie run was at least as early as 2010 in Washington, D.C.

10. Since its first undie run in 2010, Petitioner has continuously used CUPID’S UNDIE RUN to refer to its annual undie runs. Today, the annual CUPID’S UNDIE RUN takes place in more than thirty U.S. and international cities.

11. To date, Petitioner’s undie runs have raised more than \$7,500,000 to support the Children’s Tumor Foundation.

12. Since 2010, more than 40,000 participants have registered for Petitioner’s undie runs.

13. Due to the historic and widespread use of the phrase undie run, the relevant public has come to recognize the phrase undie run as a common term for an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

14. Petitioner and others have an interest in retaining the opportunity to use the phrase undie run to refer to an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

II. THE REGISTRATION

15. Petitioner realleges and incorporates by reference the preceding allegations of its Petition for Cancellation.

16. Registrant filed U.S. Application Serial No. 85/908,410 (“Application”), which matured into the Registration, on April 18, 2013.

17. The services identified in the Registration include Class 35: “Arranging and conducting special events for business purposes; Arranging and conducting special events for commercial, promotional or advertising purposes; Corporate event management services; Event planning and management for marketing, branding, promoting or advertising the goods and services of others; Special event planning for business purposes; Special event planning for commercial, promotional or advertising purposes” (“Registrant’s Services”).

18. On information and belief, Registrant is a for-profit organization that earns money for organizing undie runs on college campuses.

19. More information about Registrant’s Services and its use of the Alleged Mark can be found at Registrant’s website <http://undierun.com/about-us/>, where Registrant explains that the “[i]dea is simple: college kids need to let off steam leading up to finals and the end of the school year. The best way to do that is to run around in your underwear with

the people who understand you the most, other half-naked people.” Attached as **Exhibit A** is a screenshot of Registrant’s “About Us” website.

20. On or about October 18, 2013, Registrant amended the Application and entered a Claim of Acquired Distinctiveness, Based on Use, under Trademark Act § 2(f), 15 U.S.C. § 1052(f).

21. On or about October 18, 2013, Registrant amended the Application and entered a Claim of Acquired Distinctiveness, Based on Evidence, under Trademark Act § 2(f), 15 U.S.C. § 1052(f).

22. The Application matured into the Registration on October 7, 2014.

III. REGISTRANT’S DEMANDS TO PETITIONER

23. Petitioner realleges and incorporates by reference the preceding allegations of its Petition for Cancellation.

24. Registrant first notified Cupid Charities of its Registration on or about January 28, 2015 and thereafter repeatedly demanded that Cupid Charities cease and desist any use of CUPID’S UNDIS RUN.

25. Given Petitioner’s long history of organizing its charitable undie runs, Petitioner was surprised by the demands made by Registrant and the assertion that Registrant controls the exclusive right to use the phrase undie run in connection with an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

26. Petitioner and others have a right to continue to use the phrase undie run to refer to an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

IV. THE ALLEGED MARK IS MERELY DESCRIPTIVE

27. Petitioner realleges and incorporates by reference the preceding allegations of its Petition for Cancellation.

28. Upon information and belief, Registrant's Services include those services relating to the organization of undie runs, where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

29. As used in connection with Registrant's Services, the phrase undie run immediately describes a feature of Registrant's Services or otherwise conveys to the relevant consuming public the nature, qualities, or characteristics of Registrant's Services.

30. Registrant's Alleged Mark, as used with Registrant's Services, is not inherently distinctive.

31. Registrant's Alleged Mark, as used with Registrant's Services, is merely descriptive.

32. Registrant's Alleged Mark, as used with Registrant's Services, has not acquired distinctiveness pursuant to Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f).

33. Continued registration of the Alleged Mark in connection with Registrant's Services is a source of injury to Petitioner and others who currently use, and are entitled to continue to use, the phrase undie run in connection with an event where participants disrobe until they are wearing only underwear and then participate in the physical activity of running.

34. As the Alleged Mark is descriptive of Registrant's Services, lacks distinctiveness, and as Registrant has not acquired distinctiveness in the Alleged Mark in connection with Registrant's Services, Registrant is not entitled to maintain the Registration on the Principal Register pursuant to Section 2(e) of the Trademark Act, 15 U.S.C. § 1052(e).

WHEREFORE, Petitioner believes it will be damaged by the continued registration of the Alleged Mark shown in the Registration and respectfully requests this Petition for Cancellation be sustained, and that the Registration be cancelled.

The filing fee in the amount of \$300 is being transmitted electronically with this submission.

DATED: February 18, 2015

PERKINS COIE LLP

By:



Amanda Tessar
Alexander J.A. Garcia
Elizabeth M. Banzhoff

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Denver, Colorado 80202-5255
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ATTORNEYS FOR CUPID CHARITIES

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PETITION FOR CANCELLATION** has been served on The DEW, LLC DBA Undie Run and courtesy copies to The DEW, LLC DBA Undie Run's counsel by mailing said copy on February 18, 2015, via First Class Mail, postage prepaid to:

The DEW, LLC dba Undie Run
2012A East 22nd Street
Austin, Texas 78722

Stoel Rives LLP
Attn: Trademark Department
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111

Joshua Fine, Esq.
The Law Offices of Joshua M. Fine
8899 Beverley Blvd., Suite 401
Los Angeles, California 90048

By:



Catherine R. Sorensen

Exhibit A



PHILANTHROPY JUST GOT SEXY.

[HOME](#) [HOST UNDIE RUN](#) [SPONSORS](#) [ABOUT US](#) [MEDIA](#)



UNDIE RUN® is no ordinary charitable event.

It has been coined, "an unforgettable philanthropic experience." Other unique catchphrases help to describe the growing cultural phenomenon: "Philanthropy just got a whole lot sexier," "Half-naked humanitarians," "For co-eds who hate clothes and love charity." What is it?

UNDIE RUN® challenges college students across the nation to get involved in charity by taking their clothes off, donating them to charity, and running wild together through and around campus after a festival-like event. The idea is simple: college kids need to let off steam leading up to finals and the end of the school year. The best way to do that is to run around in your underwear with the people who understand you the most, other half-naked people. As you can imagine, UNDIE RUN® has become the ribbon for college charity, the most effective means by which awareness and funds are raised for charitable causes among college students.

PARTNERS



TESTIMONIALS

"Sex Panther cologne. It makes me wanna take my clothes off!"



STUDENT
UC SANTA BARBARA

RECENT POSTS

CON BRO'S CHILL UNDIE RUN
WORKOUT VIDEO

REASONS WHY YOU SHOULD
UNDIE RUN BY USA TODAY
COLLEGE

UNDIE RUN CHILE DONATES
\$1,000 TO FIRE VICTIMS IN
VALPARAISO

UCSB WINTER UNDIE RUN
DONATES 2,000 POUNDS OF
CLOTHING TO CHARITY

VOTE FOR UNDIE RUN IN THE 4TH
ANNUAL CLASSY AWARDS!

CATEGORIES

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PICTURES
UNDIE GIRL
UNDIE GUY
VIDEOS

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